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C O U N C I L     C O M M U N I C A T I O N

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TO: THE CITY COUNCIL  
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE  
JUNE 20, 1990

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SUBJECT: CONSIDERATION OF PROPOSAL TO REFINANCE **LODI** MEMORIAL HOSPITAL BONDS AND  
RELEASE OF CITY'S INTEREST THEREIN

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PREPARED BY: City Attorney

RECOMMENDED ACTION: Consideration of proposal to refinance Lodi Memorial  
Hospital bonds and release of City's interest therein.

BACKGROUND INFORMATION: As explained in the attached letter from bond counsel  
John R. Myers with the firm of Orrick, Herrington  
& Sutcliff, the City of Lodi in 1979 lent its status  
as a municipal corporation to the Hospital for the purpose of issuing certain  
revenue bonds with which the emergency care wing was built. The City was in  
no way a participant in this bond issue, and is not responsible for either the  
principal or interest on these bonds. It was simply necessary under Internal  
Revenue Service rules for a public agency to "sponsor" such bonds.

Lodi Memorial Hospital is now attempting to refinance these bonds with a  
private issue for the purposes of doing further construction and the possible  
acquisition of Doctors' Hospital (although that is not a certainty at this  
time). This requires the City's approval, since under the original bond  
issue, it was stipulated that the City would hold title to the emergency room  
facilities upon maturity of the bonds in the year 2020. However, it was  
apparently never contemplated that the City would actually take over operation  
of this portion of the Hospital, nor that we ever intended to actually become  
involved in the running of the facility. This was a mere formality, and the  
City is not giving up anything of value by authorizing this transaction.

In effect, the attached Acquisition Agreement and Resolution operate as a  
Quitclaim deed, simply conveying back to the Hospital any and all right or  
title the City might have had to the facilities upon the maturity of the bonds.

It is my understanding that bond counsel John Meyers will be present at the  
Council meeting of June 20, 1990 to answer any further questions the Council  
may have.

Respectfully submitted,

  
BOB McNATT  
City Attorney

BM:vc

cc: City Manager  
City Clerk

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**ORRICK, HERRINGTON  
& SUTCLIFFE**

*Direct Dial*

916/329-7903

May 25, 1990

City Council  
City of **Lodi**  
222 West Pine Street  
**Lodi**, California 95241-1910

Re: **Lodi Memorial Hospital**

Ladies and Gentlemen:

We served as bond counsel in 1979 in connection with the issuance of revenue bonds (the "1979 Bonds") by **Lodi Memorial Hospital** to finance its improvement and expansion program. In order to borrow funds at the lowest possible rates, the Hospital requested the City to sponsor the issuance of the bonds under the provisions of Revenue Ruling No. 63-20 of the Internal Revenue Service. Through this sponsorship, the City enabled the Hospital to borrow at tax-exempt rates, although the City had no legal or moral responsibility to pay debt service on the 1979 Bonds. In 1979, no other method existed for the Hospital to obtain the advantage of these lower rates (although a state agency, the California Health Facilities Financing Authority, has since been formed and given this power).

The Hospital has now determined to refund the 1979 Bonds, primarily to remove restrictive covenants contained in the bond documents. The financing will be through the California Health Facilities Financing Authority, and will include the financing of the purchase price of Doctor's Hospital of **Lodi** (if the Hospital is the successful bidder) and certain equipment acquisitions at the Hospital. The City will not be involved in this financing. Due to a requirement in Revenue Ruling No. 63-20, however, upon the refunding title to the portion of the Hospital's facilities that were financed with the proceeds of the 1979 Bonds will be automatically transferred to the City. But for the refunding, this title transfer would not occur until the 1979 Bonds were retired.

The Hospital is requesting the City to approve the transfer of the City's interest in the health facilities to the California Health Facilities Financing Authority, which will then lease the health facilities to the Hospital and rely on the lease payments to pay debt service on the new bonds. (Obviously, without this transfer it will be very difficult for the Hospital

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555 Capitol Mall • Sacramento, California 95814  
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San Francisco 415 392 1122 • Los Angeles 213 680 7000 • New York 212 326 8800

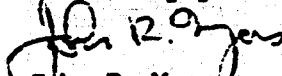
**ORRICK, HERRINGTON  
& SUTCLIFFE**

City Council  
City of Lodi  
May 25, 1990  
Page 2

to obtain the new financing. It must operate a hospital to generate revenues to repay the debt). After a required 90-day waiting period, the Hospital anticipates that the Authority will convey title back to the Hospital and rely on installment purchase payments to pay debt service on the new bonds. The proposed resolution would approve the transfer between the City and the Authority, conditioned upon both the issuance of the new bonds and the lease of the health facilities by the Authority to the Hospital.

I plan to attend the City Council meeting and will be happy to answer any questions. Thank you for your consideration of this matter.

Very truly yours,

  
John R. Myers

# **RESOLUTION NO. 90-103**

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## **A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AGREEMENT WITH THE CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY AND CERTAIN OTHER ACTIONS IN CONNECTION WITH THE TRANSFER OF TITLE TO LODI MEMORIAL HOSPITAL**

WHEREAS, Lodi Memorial Hospital (the "Hospital") previously issued \$8,000,000 aggregate principal amount of its revenue bonds (the "Bonds") for the purpose of financing certain improvements and additions to the Hospital's facilities; and

WHEREAS, in order for interest on the bonds to be exempt from federal income taxation, the City served as the sponsor of the Bonds in accordance with Revenue Ruling No. 63-20, although the City was not obligated to pay the principal of or interest on the Bonds; and

WHEREAS, the Hospital now intends to refund the Bonds and, in connection therewith, title to a portion of the Hospital's facilities will be transferred to the City in accordance with Revenue Ruling No. 63-20; and

WHEREAS, the Hospital has requested the City to transfer title to such facilities to the California Health Facilities Financing Authority in order to assist in the refunding of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE LODI CITY COUNCIL, as follows:

**Section 1.** The City Manager or his designee is hereby directed, for and on behalf of the City, to take such action as may be required to convey title to any facilities received from the Hospital in connection with the refunding of the Bonds to the California Health Facilities Financing Authority, including, without limitation, execution of a quitclaim deed and bill of sale and execution of an acquisition agreement with the Authority in substantially the form attached hereto as Exhibit A. The consideration for such transfer shall be equal to the amount necessary to cause the Bonds to be refunded, such amount to be applied to the refunding of the Bonds.

**Section 2.** The City Manager or his designee are authorized to execute any and all documents and to take any and all action which may be necessary to effectuate the purposes of this resolution.

Dated: June 20, 1990

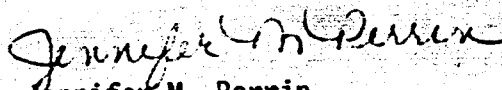
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I hereby certify that Resolution No. 90-103 was passed and adopted by the Lodi City Council in a regular meeting held June 20, 1990 by the following vote:

Ayes: Council Members - Hinchman, Olson, Pinkerton, Reid and Snider (Mayor)

Noes: Council Members - None

Absent: Council Members - None

  
Jennifer M. Perrin  
Deputy City Clerk

## ACQUISITION AGREEMENT

MIS AGREEMENT, made and entered into as of \_\_\_\_\_, 1990, by and between the CITY OF LODI, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), and the California Health Facilities Financing Authority, a public instrumentality of the State of California (the \*Authority\*);

### W I T N E S S E T H:

WHEREAS, Lodi Memorial Hospital (the "Hospital") previously issued \$8,000,000 aggregate principal amount of its revenue Bonds (the "Prior Bonds") for the purpose of financing certain improvements and additions to the Hospital's facilities; and

WHEREAS, pursuant to the terms of the Prior Bonds, the City has the option to acquire title to the health facilities financed with the proceeds of the Prior Bonds (the "Health Facilities") upon payment of an option price equal to the amount necessary to refund the Prior Bonds; and

WHEREAS, the Authority has authorized the issuance of its Hospital Revenue Bonds (Lodi Memorial Hospital), Series 1990A (the "Bonds"), for the purpose, among other things, of providing funds to acquire the Health Facilities from the City following the exercise of the City's option; and

EXHIBIT A

WHEREAS, the City has determined to sell the Health Facilities to the Authority; and

WHEREAS the Authority has determined to purchase the Health Facilities from the City and lease such facilities to the Hospital pursuant to a Lease Agreement, dated as of \_\_\_\_\_, 1990 (the "Lease Agreement"), by and between the Authority and the Hospital;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Acquisition of Facilities. The City hereby agrees to sell to the Authority, and the Authority hereby agrees to buy from the City, all right, title and interest of the City in and to the Health Facilities, as set forth in Exhibit A hereto. The City shall execute and deliver a quitclaim deed conveying title to the real property portion of the Health Facilities and a bill of sale conveying the personal property portion of the Health Facilities to the Authority on the date of issuance of the Bonds.

Section 2. Acquisition Price. In consideration of the purchase by the Authority of the Health Facilities from the City, the Authority hereby agrees to pay a purchase price equal to \$\_\_\_\_\_ on the date of the issuance of the Bonds, which shall be used by the City to exercise its option to purchase the Health Facilities from the Hospital.

Section 3. Effective Date. This Agreement shall be effective simultaneously with (1) the issuance of the Bonds, (2) the acquisition of title to the Health Facilities by the City, (3) the acquisition of title to the Health Facilities by the Authority, and (4) the lease of the Health Facilities to the Hospital. All such events shall be deemed to occur simultaneously.

Section 4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

Section 6. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first set forth above.

CITY OF LODI, a municipal  
corporation

LODI MEMORIAL HOSPITAL

\_\_\_\_\_  
THOMAS A. PETERSON  
City Manager

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
ALICE M. REINCHÉ  
City Clerk

Approved As To Form:

\_\_\_\_\_  
BOBBY W. McNATT  
City Attorney

AGRLMH/TXTA.01V